

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CORNELIUS JOSEPH O'LEARY, M.D.,

Plaintiff(s),

v.

THE UNITED STATES OF AMERICA, et al.,

Defendant(s).

Case No. 2:12-CV-215 JCM (GWF)

ORDER

Presently before the court is a referral notice from the Ninth Circuit. (Doc. # 23).

On February 10, 2012, plaintiff filed for *in forma pauperis* status with this court. (Doc. # 1). Accompanying plaintiff's *in forma pauperis* application was a claim for damage, injury, or death form. (See doc. # 1). The court treated this form as plaintiff's complaint for the purposes of screening. (See doc. # 2).

On this form, plaintiff briefly alleges that the federal government has initiated a process of social engineering, harassment, and intimidation that has led federal agents to assault him on several occasions. (Doc. # 1). Plaintiff further alleges that these agents attempted to murder him. (*Id.*). Plaintiff claims that he has suffered physical and mental torture by the United States government and requests \$10 billion for personal injury. (*Id.*).

On March 20, 2012, the magistrate judge released a report and recommendation that plaintiff's complaint be dismissed with prejudice as delusional and frivolous. (Doc. # 2). This court adopted the magistrate judge's recommendation in full, and dismissed plaintiff's complaint on April 18, 2012. (Doc. #5).

Following the dismissal of plaintiff's complaint, plaintiff wrote a series of letters to the court. (Docs. ## 9, 10). In these letters, plaintiff details the harassment he has perceived against him by other physicians he has worked with, police officers, and the federal government. (See

1 *id.*). He also discusses how “[m]achiness such as Acoustic Hailing Devices and long range in-  
 2 phase voice communication and ultrasonic ringing in the high frequency range” are being used  
 3 by both police officers and federal agents to torture and murder. (*See id.*).

4 Plaintiff moved to reopen his case on May 24, 2012. (Doc. # 11). This court denied  
 5 plaintiff’s motion on June 26, 2012. (Doc. # 12).

6 Nearly two years later, on August 22, 2014, plaintiff moved to seal his case records  
 7 (docs. ## 13, 18), and also moved to proceed *in forma pauperis*, again (doc. # 14). The court  
 8 denied both of plaintiff’s motions to seal his case records (docs. ## 15, 19), and denied as moot  
 9 his motion to proceed *in forma pauperis* (doc. # 16).

10 On September 22, 2014, plaintiff appealed this court’s April 18, 2012 order adopting the  
 11 magistrate judge’s report and recommendation and dismissing plaintiff’s claim with prejudice as  
 12 frivolous. (Doc. # 21).

13 The Ninth Circuit referred this matter to this court on September 17, 2014, for the limited  
 14 purpose of determining whether *in forma pauperis* status should continue for plaintiff’s appeal.  
 15 (Doc. # 184). Revocation of *in forma pauperis* status is appropriate where the district court  
 16 certifies that the appeal is frivolous or not taken in good faith. 28 U.S.C. § 1915(a)(3).<sup>1</sup>

17 The court finds that the appeal is not taken in good faith and that it is frivolous. This  
 18 court dismissed plaintiff’s claims for want of prosecution. “Failure to follow a district court’s  
 19 local rules is a proper ground for dismissal.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

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27 <sup>1</sup> The appellate court, however, may grant *in forma pauperis* status on appeal. *See*  
 28 *O’Neal v. Price*, 531 F.3d 1146, 1149 (9th Cir. 2008) (“[S]ubsections (a)(4) and (5) of Rule 24 of  
 the Federal Rules of Appellate Procedure give litigants a procedural route for challenging the  
 trial court’s certification.”).

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, in response to the Ninth Circuit's referral notice, (doc. # 23), the court certifies that the appeal is frivolous and not taken in good faith.

James C. Mahan  
UNITED STATES DISTRICT JUDGE